



Columbus & Greenville Railway

1302 Main Street
Columbus, Mississippi 39701

6-314A020

November
Fourth
1976

NOV 9 1976

Date

Fee \$

ICC Washington, D. C.

RECORDATION NO.

Office of the President
[601] 327-2485

8562

NOV 9 1976 -9 52 PM

INTERSTATE COMMERCE COMMISSION

Mr. Robert L. Oswald, Secretary
Interstate Commerce Commission
Twelfth Street and Constitution Ave.
Washington, D. C. 20423

Dear Secretary Oswald:

Attached please find two copies of a lease for twenty-nine (29) covered hopper cars entered into 27 October 1976 between Scribner Investment Company, Inc. and Columbus and Greenville Railway Company.

Please see that this lease is recorded under the provisions of Section 20c of the Interstate Commerce Act and provide us with the pertinent recording information. A check for the \$50.00 recording fee is also attached.

Thank you for your usual prompt handling.

Very truly yours,

Craig E. Burroughs
Craig E. Burroughs
/d

encls.

unparalleled service from the delta to the hills

Interstate Commerce Commission

Washington, D.C. 20423

11/11/76


OFFICE OF THE SECRETARY

**Craig E. Burroughs
Columbus & Greenville RYW.
1302 Main Street
Columbus, Mississippi 39701**

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **11/9/76** at **9:50am** and assigned recordation number(s) **8562**

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

**SE-30
(5/76)**

NOV 9 1976 9 52 PM

INTERSTATE COMMERCE COMMISSION

RAILROAD EQUIPMENT LEASE

This Railroad Equipment Lease, dated as of October 27, 1976, between SCRIBNER INVESTMENT COMPANY, INC., a Delaware corporation, doing business as SCRIBNER EQUIPMENT COMPANY, INC. (hereinafter referred to as "Lessor"), and COLUMBUS AND GREENVILLE RAILWAY COMPANY, a Mississippi corporation (hereinafter referred to as "Lessee");

WITNESSETH:

In consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the parties hereto covenant and agree as follows:

1. Procurement and Delivery of Cars. Lessor shall procure and cause to be delivered to Lessee at Columbus, Mississippi, twenty-nine (29) covered hopper cars presently owned by the Corn Products Division of CPC International, which are more fully described on Schedule "A" attached hereto, and hereby incorporated herein by this reference thereto. Lessor agrees to lease said cars to the Lessee, and Lessee agrees to accept and hire said cars from the Lessor, subject to and upon the terms, conditions and rental hereinafter set forth.

The Lessee hereby expressly agrees that:

(a) It has inspected said cars and is fully familiar with their design and present condition, and that no representation or warranties as to such condition have been or are made by the Lessor.

(b) That it will promptly accept delivery of each of the cars covered hereby when tendered to it, and that it will promptly thereafter execute and deliver to the Lessor a certificate of acceptance, in substantially the form as that attached hereto as Exhibit "B".

2. Term of the Lease. The term of this Lease is and shall be for a period of three (3) years, commencing on the 15th day of November, 1976, and terminating on the 14th day of November, 1979.

3. Rentals. Lessee agrees to pay unto the Lessor as fixed rent for said cars, the sum of One Hundred Thirty-Five Thousand Five Hundred Sixty-Five and 70/100 Dollars (\$135,565.70) during the term of this lease, said rental to be paid in thirty-five (35) equal monthly installments of Three Thousand Seven Hundred Sixty-Five and 72/100 Dollars (\$3,765.72), commencing on the 15th day of November, 1976, and one payment of like amount being due and payable on the 15th day of each succeeding month thereafter through and including the 15th day of September, 1979, and a final payment of Three Thousand Seven Hundred Sixty-Five and 50/100 (\$3,765.50), being due and payable on October 15, 1979.

This lease is a net-net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this lease or otherwise, nor, except as otherwise expressly provided herein, shall this lease terminate, or the respective obligations of Lessor or Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the cars from whatsoever cause, the taking or requisitioning of the cars by condemnation or otherwise, the lawful prohibition of Lessee's use of the cars, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this lease, or lack of right, power or authority of the Lessor to enter into this lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events.

4. Title to the Equipment. The Lessor shall and hereby does retain full legal title to the cars notwithstanding the delivery thereof to and the possession and use thereof by Lessee.

At all times during the continuance of this lease, the Lessee

will cause each car to be kept numbered with the applicable unit number as set forth in Schedule "A" hereof which shall not be changed without the prior written consent of the Lessor. In case of such a change, the new number shall be set forth in a supplement to this lease which supplement shall be executed by the Lessor and the Lessee, and the Lessee shall file or record such supplement in the same manner as this lease is filed or recorded pursuant to Paragraph 18 hereof.

Upon the delivery to the Lessee of each car under this lease, the Lessee shall cause the cars to be plainly, distinctly, permanently and conspicuously marked by a plat or stencil printed in a contrasting color, upon each side of each car, the following legend in letters not less than one (1) inch in height:

"THIS CAR IS LEASED BY THE COLUMBUS AND GREENVILLE
RAILWAY COMPANY PURSUANT TO A LEASE AND SECURITY
INTEREST RECORDED WITH THE I.C.C."

In case, during the continuance of this lease, any such marking shall at any time be defaced or destroyed on any car, the Lessee shall immediately cause the same to be restored or replaced. The Lessee shall not allow the name of any person, association or corporation other than the Lessor, but, for the convenience of identification the cars may be lettered with the name, initials or other insignia customarily used by Lessee, or its affiliates, on equipment of the same or similar type. Lessee shall indemnify the Lessor against any liability, loss or expense incurred by Lessor as a result of the aforesaid marking of the cars with the name, initials or insignia.

5. Disclaimer of Warranty as to Fitness or Merchantability of Cars. The Lessor makes no warranty or representation, either express or implied, as to the fitness or merchantability of the cars, nor that they will meet standards for interchange, it being agreed that all such risks, as between the Lessor and the Lessee are to be borne by the Lessee.

6. Indemnification Clause. From and after the date hereof until the termination of this lease, the possession, use, opera-

tion and maintenance of the cars shall be at the sole risk and expense of the Lessee. Lessee shall indemnify and save harmless the Lessor from and against (a) any and all loss or damage of or to the cars, usual wear and tear excepted, and (b) any claim, cause of action, damages or liability (including counsel fees and expenses in connection therewith) which the Lessor may incur in any manner by reason of its ownership of, or which may arise in any manner out of, or as a result of, the use or operation of any car, or by reason of its condition (whether defects are latent, patent or discernible by Lessee), or as a result of claims for patent infringement regardless of whether such claims are made during or subsequent to termination.

7. Rules, Laws and Regulations. Lessee shall comply with all applicable state, federal and local laws, regulations, requirements and rules, including those with respect to the registration, licensing, use, maintenance and operation of the cars.

8. Use and Maintenance of Cars. The Lessee shall use the cars only in the manner for which they were designed and intended and so as to subject them only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the cars in good order, condition and repair, ordinary wear and tear excepted. The Lessee shall not modify any car without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any and all replacements of parts and modifications of the cars shall constitute accessions thereto and shall be subject to all of the terms and conditions of the lease as though part of the original car delivered hereunder.

9. Liens on the Cars. The Lessee shall pay or satisfy and discharge any and all sums claimed by, through, or under the Lessee and its successors or assigns which, if unpaid, might become a lien or a charge upon the cars, and any liens or charges which may be levied against or imposed upon any car as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this lease; but the Lessee shall

not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the cars. Lessee's obligations under this Paragraph 9 shall survive termination of this lease.

10. Filing; Payment of Fees and Taxes. Prior to commencement of the term hereof, Lessee will, at its sole expense, cause this lease, any assignment of monies due and to become due hereunder and any chattel mortgage or other security agreement covering the cars to be duly filed, registered or recorded in conformity with Section 20c of the Interstate Commerce Act, or other applicable statutory authority, and/or in such other place or places as Lessor may reasonably request for the protection of its title and will furnish Lessor proof thereof. Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by Lessor, for the purpose of protecting Lessor's title to the cars to the satisfaction of Lessor's counsel or for the purpose of carrying out the intention of this lease and, in connection with any such action, will deliver to Lessor proof of such filings and an opinion of Lessee's counsel that such action has been properly taken. Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, registering, re-registering, recording and re-recording of any such instruments or incident to the taking of any such action.

Lessee, or Lessor at Lessee's expense, shall pay and discharge when due all license and registration fees, assessments, sales, use, property taxes, gross receipt taxes arising out of receipts from use or operation of cars and other taxes (excluding any tax on or measured by rent payable hereunder or Lessor net income

therefrom; provided, however, Lessee agrees to pay any such tax on or measured rents payable hereunder or the net income therefrom which is in substitution for, or relieves Lessee from, a tax on the cars which Lessee would otherwise be obligated to pay under the provisions of this Paragraph 10), together with any penalties or interest thereon, imposed by any state, federal or local government upon any car and whether or not the same shall be assessed against or in the name of Lessor or Lessee, provided, however, that the Lessee shall not be required to pay or discharge any such tax or assessment so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of Lessor to the cars, however, Lessee shall reimburse Lessor for any damages or expense resulting from such failure to pay or discharge.

11. Payment for Casualty Occurrence of Equipment Unserviceable for Use. In the event that any car shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, obsolete or economically unserviceable for use from any cause whatsoever, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise (any such occurrence, except for any requisition which by its terms does not exceed the remaining term of the term of this lease, being hereinafter called a Casualty Occurrence) during the term of this lease, the Lessee shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Lessor in regard thereto and Lessee shall thereupon pay Lessor a sum equal to the Casualty Value of such car on the next succeeding rental payment date.

Upon making (and not until) such payment in respect of any car or cars, the Lessee shall be entitled to the salvage of such car or cars.

Lessor and Lessee agree to cooperate with and to assist each other in any reasonable manner requested, but without affecting

their respective obligations under this paragraph, to establish proper claims against parties responsible for loss or destruction of or damage to the cars.

The Lessee shall bear the risk of and shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any car after the date hereof.

In the event that during the term of this lease the use of any car be requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not exceed the remaining term of this lease, Lessee's duty to pay rent shall continue for the duration of such requisitioning or taking. Lessor shall retain for its own account all sums payable by such governmental authority as compensation for requisition or taking of possession in excess of such portion of those sums as equals the rent paid for that period, if any, and shall remit the balance to Lessee.

12. Inspection by Lessor. At its sole cost and expense, the Lessor or its assigns or by its authorized representatives shall have the right to inspect the cars and the Lessee's records with respect thereto, at such times as shall be reasonably necessary for efficient administration of this lease.

13. Return of Cars Upon Expiration of Term. Within thirty (30) days of the expiration of the term of this lease or any renewal hereof, the Lessee will, at its own cost and expense, at the request of Lessor, deliver possession of such car to the Lessor at such place as Lessor may direct on the tracks of the Lessee, and Lessee will store each such car for a period not exceeding six (6) months. During any such storage period, the Lessee will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such car, to inspect the same. The assembling, storage and transporting of the cars as hereinbefore provided are of the essence of this lease, and upon application to any court of equity having jurisdiction in the premises

the Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee to so assemble, deliver, store and transport the cars.

14. Default. If, during the continuance of this lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

(a) Default shall be made in the payment of any part of the rental provided in Paragraph 3 hereof and such default shall continue for ten (10) calendar days;

(b) The Lessee shall make or permit any unauthorized assignment or transfer of this lease or of possession of the cars, or any portion thereof, and shall fail or refuse to cause such assignment or transfer to be canceled by agreement of all parties having any interest therein and to recover possession of said cars within ten (10) calendar days after written notice from Lessor to Lessee demanding such cancellation and recovery of possession;

(c) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for ten (10) calendar days after written notice from Lessor to Lessee, specifying the default and demanding the same to be remedied;

then, in any such case, the Lessor, at its option, may to the extent not prohibited by mandatory requirements of law in force and applicable thereto:

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this lease or to recover damages for the breach thereof; or

(ii) by notice in writing to the Lessee, terminate this lease, whereupon all right of the Lessee to the use of the cars shall absolutely cease and terminate as though this lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter

upon the premises of the Lessee or other premises where any of the cars be and take possession of all cars or any car and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the cars for any purpose whatever.

The remedies in this lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any off-set against the rental payments due hereunder, and agrees to make the rental payments regardless of any off-set or claim which may be asserted by Lessee or on its behalf in connection with the lease of the cars.

The failure of Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

15. Return of Cars Upon Default. If the Lessor shall terminate this lease pursuant to Paragraph 14 hereof, the Lessee shall forthwith deliver possession of the cars to the Lessor. For the purpose of delivering possession of any car to the Lessor as above required, Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such car in such storage place as the Lessor may designate or, in the absence of such designation, as the Lessee may select; and

(b) Permit the Lessor to store such car in such reasonable storage place on the Lessee's line of railroad for a period not exceeding six (6) months at the risk of the Lessee.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Paragraph 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any cars to Lessor, to demand and take possession of such car in the name and on behalf of Lessee from whosoever shall be at the time in possession of such car.

16. Assignment: Possession and Use. This lease shall be assignable in whole or in part by Lessor without the consent of Lessee, but Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice being given Lessee hereunder, the rights of such assignee to such payments as may be assigned, together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of Lessor under this lease or otherwise.

So long as the Lessee shall not be in default under this lease, the Lessee shall be entitled to the possession and use of the cars in accordance with the terms of this lease; but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this lease in the cars. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the cars, except in the ordinary course of business of the Lessee, including interchange and subleasing and except to the extent permitted by the provisions of the next succeeding paragraph hereof. No assignment, sublease or interchange entered into by Lessee hereunder shall relieve Lessee of any liability or obligations hereunder.

17. Opinions of Counsels of Lessee and Guarantor. Concurrently with the execution and delivery of this lease, Lessee

will upon written request of Lessor deliver to Lessor the written opinion of counsel for Lessee, in scope and substance satisfactory to Lessor, to the effect that:

(a) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the State of Mississippi.

(b) Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary;

(c) this lease has been duly authorized, executed and delivered by Lessee and constitutes the legal, valid and binding obligations of Lessee, enforceable in accordance with its terms;

(d) registration with, approval of, filing with, or any other action by or with any federal, state or other governmental commission (including, without limitation, the Interstate Commerce Commission) is not required in connection with execution and delivery of the lease; or, if so required, such registration has been made, such approval given, such filing made, or other appropriate action taken; and

(e) the execution and delivery by Lessee of the lease does not violate any provisions of any law, any order of any court or governmental agency, the Certificate of Incorporation or By-Laws of the Lessee, or any indenture, agreement, or other instrument to which Lessee is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement, or other instrument, or result in the creation of imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of Lessee, except as contemplated and permitted hereby; and

(f) as to any other matters which Lessor shall reasonably request.

18. Recording; Expenses. The Lessee will, at its expense, from time to time do and perform any act and will execute, acknowledge, deliver, file, register, record and deposit (and will re-file, re-register, re-record and re-deposit whenever required) any and all further instruments including financial statements required by law or reasonably requested by Lessor, for the purpose of proper protection, to the satisfaction of the Lessor, of its title to the cars or for the purpose of carrying out the intention of this lease.

The Lessor shall have the right, at any time during the term of this lease, to appoint a bank or trust company selected by it to act as agent or trustee for it hereunder.

19. Interest on Overdue Rentals and Amounts Paid by Lessor. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals due hereunder, or amounts expended by Lessor on behalf of Lessee, shall result in the obligation on the part of Lessee to pay also an amount equal to ten per cent (10%) of the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

20. Notices. Any notice and/or payment required or permitted to be given by any party hereto to another party hereto shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

If to the Lessor: Scribner Investment Company, Inc.
d/b/a Scribner Equipment Company, Inc.
P. O. Box 179
Amory, Mississippi 38821

If to the Lessee: Columbus and Greenville Railway Company
1302 Main Street
Columbus, Mississippi 39701

or addressed to either party at such other addresses as such party shall hereafter furnish to the other parties in writing.

21. Execution in Counterparts. This lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and

in each case such counterparts shall constitute but one and the same instrument.

22. Law Governing. This lease shall be construed in accordance with the laws of Mississippi; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

IN WITNESS WHEREOF, the parties hereto have executed this lease by their respective duly authorized officers and their corporate seals to be hereto affixed as of the day and year first above written.

(SEAL)

SCRIBNER INVESTMENT COMPANY, INC.,
A Delaware Corporation, d/b/a
SCRIBNER EQUIPMENT COMPANY, INC.

BY: [Signature]

TITLE: President

ATTEST: [Signature]

TITLE: Asst. Secy

(SEAL)

COLUMBUS AND GREENVILLE RAILWAY
COMPANY, A Mississippi Corporation

BY: [Signature]

TITLE: Chairman

ATTEST: [Signature]

TITLE: Sec. Treasurer

STATE OF MISSISSIPPI

COUNTY OF Monroe

This day personally appeared before me, the undersigned authority of law in and for said county and state, J. R. Scribner and J. R. Scribner, Jr., being President and Asst. Sec., respectively, of SCRIBNER INVESTMENT COMPANY, INC., a Delaware corporation, doing business as SCRIBNER EQUIPMENT COMPANY, INC., who acknowledged that they signed, sealed and delivered the foregoing Railroad Equipment Lease, on the day and year therein mentioned, for the purpose therein expressed, as and for the act and deed of said corporation, being duly and legally authorized to do so.

Given under my hand and seal, on this the 27 day of October, A.D., 1976.

(SEAL)

Eugene B. Scribner
NOTARY PUBLIC

My commission expires:

Nov. 25, 1976

STATE OF MISSISSIPPI

COUNTY OF Monroe

This day personally appeared before me, the undersigned authority of law in and for said county and state, Sam Y. Wilhite and J. Thompson, being Chairman and Secy. Treas., respectively, of COLUMBUS AND GREENVILLE RAILWAY COMPANY, a Mississippi corporation, who acknowledged that they signed, sealed and delivered the foregoing Railroad Equipment Lease on the day and year therein mentioned, for the purpose therein expressed, as and for the act and deed of said corporation, being duly and legally authorized to do so.

Given under my hand and seal, on this the 27 day of Oct ~~July~~, A.D., 1976.

(SEAL)

Eugenia B. Dobb
NOTARY PUBLIC

My commission expires:

Nov. 25, 1976

SCHEDULE A

The twenty-nine (29) covered hopper cars listed below were formerly owned by the Corn Products Division of CPC International, P. O. Box 345, Argo, Illinois 60501. They have the following mechanical specifications:

Nominal Capacity	154,000 lbs.
Tare Weight	57,200 lbs.
Cubic Capacity	2,565 Cu. Ft.
Length	32 Ft. 4 In.
Width	10 Ft. 3 In.
Height	15 Ft. 8 In.
Date Built	(Various)
Date Reconditioned	1973

The cars are identified by the reporting marks "CCLX" and are numbered as indicated below. Gaps in the numbers reflect cars that have been scrapped and not a part of this transaction.

Present CPC International Stenciling on cars

CCLX 3
CCLX 4
CCLX 7
CCLX 8
CCLX 10
CCLX 11
CCLX 12
CCLX 13
CCLX 14
CCLX 15
CCLX 16
CCLX 17
CCLX 18
CCLX 19
CCLX 20
CCLX 22
CCLX 23
CCLX 24
CCLX 25
CCLX 26
CCLX 27
CCLX 28
CCLX 30
CCLX 31
CCLX 32
CCLX 33
CCLX 36
CCLX 37
CCLX 38

Proposed Columbus & Greenville Railway Stenciling on cars

CAGY 3
CAGY 4
CAGY 7
CAGY 8
CAGY 10
CAGY 11
CAGY 12
CAGY 13
CAGY 14
CAGY 15
CAGY 16
CAGY 17
CAGY 18
CAGY 19
CAGY 20
CAGY 22
CAGY 23
CAGY 24
CAGY 25
CAGY 26
CAGY 27
CAGY 28
CAGY 30
CAGY 31
CAGY 32
CAGY 33
CAGY 36
CAGY 37
CAGY 38

Total 29 Cars